

1 KAMALA D. HARRIS
Attorney General of California
2 KAREN B. CHAPPELLE
Supervising Deputy Attorney General
3 THOMAS L. RINALDI
Deputy Attorney General
4 State Bar No. 206911
300 So. Spring Street, Suite 1702
5 Los Angeles, CA 90013
Telephone: (213) 897-2581
6 Facsimile: (213) 897-2804
Attorneys for Complainant
7

8 **BEFORE THE**
9 **BOARD OF PHARMACY**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

11 In the Matter of the Petition to Revoke
12 Probation Against:

13 **ERIC T. RIVERA**
14 **21409 Weiser Ave.,**
15 **Carson, CA 90745**

15 **Original Pharmacy Technician Registration**
16 **No. TCH 79772**

16 Respondent.

Case No. 4017

PETITION TO REVOKE PROBATION

18 Complainant alleges:

19 **PARTIES**

20 1. Virginia Herold (Complainant) brings this Petition to Revoke Probation solely in her
21 official capacity as the Executive Officer of the Board of Pharmacy, Department of Consumer
22 Affairs.

23 2. On or about December 17, 2009, the Board of Pharmacy issued Original Pharmacy
24 Technician Registration Number TCH 79772 to Eric T. Rivera (Respondent). The Original
25 Pharmacy Technician Registration (Registration) was in effect at all times relevant to the charges
26 brought herein and will expire on April 30, 2013, unless renewed.

27 3. In a disciplinary action entitled "In the Matter of Statement of Issues Against Eric
28 Rivera," Case No. 3284, the Board of Pharmacy, issued a decision, effective December 16, 2009,

1 in which Respondent was issued a Registration that was immediately revoked. However, the
2 revocation was stayed and Respondent's Registration placed on probation for a period of three (3)
3 years with certain terms and conditions. A copy of that decision is attached as Exhibit A and is
4 incorporated by reference.

5 JURISDICTION

6 4. This Petition to Revoke Probation is brought before the Board of Pharmacy (Board),
7 Department of Consumer Affairs, under the authority of the following laws. All section
8 references are to the Business and Professions Code unless otherwise indicated.

9 5. Section 4011 of the Code provides that the Board shall administer and enforce both
10 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances
11 Act [Health & Safety Code, § 11000 et seq.].

12 6. Section 4300(a) of the Code provides that every license issued by the Board may be
13 suspended or revoked.

14 CAUSE TO REVOKE PROBATION

15 **(Failure to Submit Drug Testing)**

16 7. At all times after the effective date of the Decision and Order imposing probation on
17 Respondent's Registration, term and condition no. 5 stated:

18 **Cooperate with Board Staff.** Respondent shall cooperate with the board's inspection
19 program and with the board's monitoring and investigation of respondent's compliance with the
20 terms and conditions of his probation. Failure to cooperate shall be considered a violation of
21 probation.

22 8. At all times after the effective date of the Decision and Order imposing probation on
23 Respondent's Registration, term and condition no. 15 provided, in pertinent part:

24 **Random Drug Screening.** Respondent at his own expense, shall participate in random
25 drug testing, including but not limited to biological fluid testing (urine, blood), breathalyzer, hair
26 follicle testing, or other drug screening program as directed by the Board or its designee.

27 Respondent may be required to participate in testing for the entire probation period and the
28 frequency of testing will be determined by the Board or its designee. At all times respondent

1 shall fully cooperate with the Board or its designee, and shall, when directed, submit to such tests
2 and samples for the detection of alcohol, narcotics, hypnotics, dangerous drugs or other controlled
3 substances as the Board or its designee may direct. Failure to timely submit to testing as directed
4 shall be considered a violation of probation.

5 9. Respondent's probation is subject to revocation in that he violated Term and
6 Condition of Probation Nos. 5 and 15 as follows:

7 a. Respondent failed to call in to determine if he was required to submit for testing
8 on the following dates: January 27-February 12, 2010; March 28, 2010; April 4, 2010; April 9,
9 2010; April 18, 2010; April 24, 2010; May 4, 2010; May 23, 2010; May 28, 2010; June 6, 2010;
10 June 13, 2010; August 14, 2010; and October 9, 2010.

11 b. Respondent failed to submit to drug testing as required on the following dates:
12 February 11, 2010; August 31, 2010; September 27, 2010; September 29, 2010; November 16,
13 2010; November 24, 2010; and November 29, 2010.

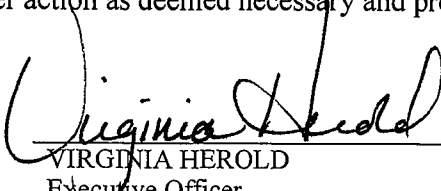
14 PRAYER

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
16 and that following the hearing, the Board of Pharmacy issue a decision:

17 1. Revoking the probation that was granted by the Board of Pharmacy in Case No. 3284
18 and imposing the disciplinary order that was stayed, thereby revoking Original Pharmacy
19 Technician Registration No. TCH 79772 issued to Eric T. Rivera;

20 2. Taking such other and further action as deemed necessary and proper.

21
22 DATED: 8/15/11


23 VIRGINIA HEROLD
24 Executive Officer
25 Board of Pharmacy
26 Department of Consumer Affairs
27 State of California
28 Complainant

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Exhibit A

Decision and Order

Board of Pharmacy Case No. 3284